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Attitudes Toward Corporate Responsibility: A Psycholegal Perspective

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I. INTRODUCTION

One of the most striking phenomena in the contemporary legal world is the shift toward holding businesses and corporations respon-

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sible for harm. Legal theorists and historians maintain that today business corporations are expected to provide compensation for injuries that in earlier times would have been attributed to individuals or to fate.¹ Furthermore, criminal charges against businesses and business executives are becoming commonplace.²

Despite a good deal of legal scholarship on the shift toward holding businesses culpable for harms, psychologists have conducted little systematic research on public views of corporate responsibility. How do people conceptualize the civil liability or criminal responsibility of such group entities? Does it differ significantly from the way in which they conceive of individual responsibility? Under what circumstances are people likely to hold corporations and other groups, as opposed to individuals, culpable for harms?

Two serious industrial accidents have put such questions at the top of the national agenda. In February of 1989, settlement was reached in litigation over the accidental release of toxic gas from a Union Carbide plant in Bhopal, India, which caused 3,500 deaths and some 200,000 injuries.³ Considerable legal skirmishing accompanied the selection of the appropriate venue for the trial. The general belief was that the United States would be a much more favorable locale for the plaintiffs than India because of the United States' expansive legal principles governing corporate liability and the tendency of American juries to give larger damage awards.⁴ In the end, it was an Indian court that ordered Union Carbide to pay \$470 million in compensation and dropped all criminal charges against Union Carbide and its chairman.⁵

Evaluations of the fairness of the settlement varied. Some believed that the Indian government had "surrendered before the multinational," and viewed the settlement as "a victory of Union Carbide."⁶ Others pointed to the considerable difficulties plaintiffs would have had to overcome in order to prevail at trial, including establishing the parent company's liability for the Bhopal affiliate, meeting India's stricter standards of liability and causation, and refuting Union Carbide's contention that a disgruntled employee had sabotaged the plant and caused the disaster.⁷

Several questions surrounding the accident in Bhopal remain un-

1. See *infra* notes 16-28 and accompanying text.

2. 1 K. BRICKEY, CORPORATE CRIMINAL LIABILITY 1-8 (1984).

3. Hazarika, *Bhopal Payments by Union Carbide Set at \$470 Million*, N.Y. Times, Feb. 15, 1989, at A1, col. 5.

4. See Lewin, *Judge Bars U.S. Suits on Bhopal: Claims Should Be Heard in India, He Rules*, N.Y. Times, May 13, 1986, at D1, col. 6; *Whose Justice for Bhopal?*, N.Y. Times, May 14, 1986, at A26, col. 1.

5. Hazarika, *supra* note 3.

6. *Id.* at D3, col. 3.

7. Labaton, *Bhopal Outcome: Trial Is Avoided*, N.Y. Times, Feb. 15, 1989, at D3, col. 1.

answered. By what country's rules should Union Carbide have been judged? Was the resulting settlement of the Indian court just? What are the limits of a parent company's responsibility for the operation of its subordinate entities? Would the company have been liable for damages even if the actions of an individual employee precipitated the toxic gas leak?

On March 24, 1989, the Exxon Valdez oil tanker ran aground off the coast of Alaska.⁸ The resulting eleven million gallon oil spill injured and killed massive numbers of wildlife and caused substantial environmental damage to Alaska's coastline.⁹ Early news stories stated that the ship's captain had apparently been asleep at the time of the disaster, and speculated that alcohol may have played a role.¹⁰ Reports stated that Exxon was aware that the captain had a history of alcohol abuse and that he had undergone treatment.¹¹

The discussion and debate in the press quickly moved from scrutinizing the personal peccadillos of the captain to focusing on the responsibility of Exxon.¹² Some officials have conceded that even though Exxon will spend over a billion dollars on the cleanup, Alaska's coastline cannot be restored to its pre-spill state.¹³ If Exxon cannot make the community whole again, what should the company do to compensate for damage of this magnitude? As of July 1989, 143

8. Shabecoff, *Largest U.S. Tanker Spill Spews 270,000 Barrels of Oil Off Alaska*, N.Y. Times, March 25, 1989, at A1, col. 1.

9. See, e.g., Browne, *In Once-Pristine Sound, Wildlife Reels Under Oil's Impact*, N.Y. Times, April 4, 1989, at C1, col. 1.

10. Shabecoff, *Captain of Tanker Had Been Drinking, Blood Tests Show*, N.Y. Times, March 31, 1989, at A1, col. 6.

11. See, e.g., *Alcohol and the Big Spill*, N.Y. Times, April 17, 1989, at A18, col. 1.

12. See, e.g., Deutsch, *The Giant With a Black Eye*, N.Y. Times, April 2, 1989, § 3 (Business), at 1, col. 2; Shabecoff, *Oil Industry Rebuked as Senate Hearings Begin in Alaska Oil Spill*, N.Y. Times, April 20, 1989, at B8, col. 1. Even articles about Captain Hazelwood's alcohol problem discussed Exxon's responsibility for rehabilitation and supervision of employees who abuse alcohol and drugs. Consider this New York Times editorial, which pointed the finger at the company: "What is clear is that Exxon mishandled an employee with an alcohol problem. Exxon is not alone. Too many businesses have firm policies but inadequate procedures for dealing with alcohol and drugs." *Supra* note 11.

13. "No amount of money will make Prince William Sound look as it did before the disaster. Now officials are in the tough position of having to decide when Exxon has done all that it can reasonably be expected to do." Wald, *What Exxon Will Be Leaving Behind*, N.Y. Times, July 30, 1989, § 4 (The Week in Review) at 7, col. 1. For a more positive view of Exxon's efforts, see Exxon Corporation President Lee Raymond's letter to the New York Times:

Exxon accepted responsibility for the tragic accident the day it occurred. . . . Those who were in Alaska and saw [our cleanup] effort with their own eyes liken it to a mini D-Day. I submit to you that few organizations, private or public, could have done what Exxon did in the same period of time.

Raymond, *Exxon Cleanup Looked Like a Mini D-Day*, N.Y. Times, Oct. 2, 1989, at A18, col. 4.

separate lawsuits had been filed against Exxon for spill damage.¹⁴ Do civil lawsuits constitute an appropriate sanction and a sufficient deterrent? Or do Exxon's actions contributing to the oil disaster rise to the level of criminal culpability?¹⁵

The Bhopal and Exxon cases raise a tangled web of issues pertaining to the responsibilities of business and corporate entities. Although numerous sociologists, political scientists, and philosophers have reflected upon, studied and written about the problem of corporate responsibility, psychologists have been virtually silent on the topic. Yet many matters—public attitudes toward corporate responsibility, risk-taking within a corporate environment, the effective deterrence of potential wrongdoers—entail psychological assumptions and concerns. For scholars working at the interface of psychology and law, who study how law influences and is affected by individuals, groups, and the social environment, the topic of corporate responsibility is especially pertinent.

This article examines psycholegal aspects of corporate responsibility for wrongdoing, focusing in particular on public attitudes toward the responsibilities of corporations for harm caused by the corporations. The article draws on psychological theory and method to study the factors that lead people to hold corporations culpable for harms. One aim of the article is to begin to develop a systematic account of such judgment processes. Other purposes are to demonstrate the advances in knowledge about corporate wrongdoing that could be gained by incorporating psycholegal research and theory, and to draw the attention of psycholegal scholars to this fertile and increasingly important area of study.

II. CASES INVOLVING BUSINESSES AND CORPORATIONS: AN INCREASING PART OF THE LEGAL LANDSCAPE

The Union Carbide and Exxon cases are but two examples of the growing presence of corporations in the legal landscape. According to legal scholars, there has been a long term shift in legal rules and societal norms regarding the responsibility of businesses to compensate those individuals who have suffered from business-related injuries.¹⁶ For example, nineteenth century America presented a far less sup-

14. Martinez, *Exxon Profits Plunge After Spill*, The Wilmington News-Journal, July 25, 1989, at B8, col. 2.

15. Labaton, *Does an Assault on Nature Make Exxon a Criminal?*, N.Y. Times, April 23, 1989, § 4 (The Week in Review), at 1, col. 4.

16. *E.g.*, L. FRIEDMAN, A HISTORY OF AMERICAN LAW 177-201, 467-87 (2d ed. 1985); Black, *Compensation and the Social Structure of Misfortune*, 21 LAW & SOC'Y. REV. 563 (1987) (trend away from individual liability to organizational liability conforms to theory that liability varies directly with social distance).

portive environment for injured workers than that which exists in contemporary times. In 1850, an individual harmed on the job had difficulty obtaining compensation. If the person was contributorily negligent, or if a fellow worker's actions caused the injury, a lawsuit against the company was unlikely to succeed. Bars to recovery from businesses included the fellow servant rule,¹⁷ an expansive assumption of risk doctrine,¹⁸ and a strict doctrine of contributory negligence.¹⁹ As a result, it was largely the workers, and not the companies, who bore the brunt of most business-related personal injuries.

A variety of factors led to legal changes that placed greater responsibility upon business.²⁰ The vast number of industrial accidents combined with sympathetic judges and juries to create a social and legal climate in which the fellow servant rule was abolished and assumption of risk and contributory negligence doctrines were modified to permit partial recovery for injured workers. The Progressive Movement and the New Deal were accompanied by broad social and attitudinal shifts, which contributed to expectations that collective entities such as governments and businesses had the responsibility to compensate for harms. The introduction of workers' compensation cemented business responsibility for most worker injuries. Analyzing these and other changes in legal rules and social norms, Donald Black noted the striking shift toward reliance upon collective sources of responsibility such as business organizations.²¹

The century-long movement toward greater business liability accelerated from the 1960s to the 1980s. According to Friedman, the consumer, environmental, and civil rights movements during these decades helped to raise public anticipation of fair treatment and full

17. The fellow servant rule prohibited recovery from an employer if the injury was caused by a coworker's negligence. *See, e.g.,* *Farwell v. Boston & Worcester R.R. Corp.*, 45 Mass. (4 Met.) 49 (1842). Because many on-the-job injuries resulted from coworker negligence, and coworkers were typically unable to provide adequate compensation, most worker injuries went uncompensated. Friedman & Ladinsky, *Social Change and the Law of Industrial Accidents*, 67 COLUM. L. REV. 50 (1967).

18. Nineteenth century workers were typically held to have assumed the risks or dangers associated with their employment, especially if they were aware of the dangers. *Lamson v. American Axe & Tool Co.*, 177 Mass. 144, 58 N.E. 585 (1900). *See* the discussion of assumption of risk doctrine in R. EPSTEIN, C. GREGORY, & H. KALVEN, JR., *CASES AND MATERIALS ON TORTS* 467-81 (4th ed. 1984).

19. Contributory negligence refers to conduct on the part of the plaintiff which contributes or leads to his or her injury. An example would be the plaintiff's smoking habits in an asbestos case. In contemporary law, contributory negligence usually operates to lessen the defendant's liability and consequently lower the plaintiff's award. However, in the nineteenth century, evidence of a plaintiff's contributory negligence was a complete defense, precluding any award. *See* R. EPSTEIN, C. GREGORY, & H. KALVEN, *supra* note 18, at 439-67.

20. Friedman & Ladinsky, *supra* note 17.

21. Black, *supra* note 16, at 576-80.

compensation for undeserved suffering, creating a contemporary legal culture of "total justice" expectations.²² James Coleman has argued that the growth in the numbers and power of corporations created an asymmetric society, which in turn led to attempts to redress the balance between individuals and corporations.²³ Reflecting on the century-long shift, he writes that "the principle of *caveat emptor*, let the buyer beware, in a social structure which was not asymmetric between buyers and sellers, has been replaced, in the asymmetric society, with sharp restriction of the seller's rights and expansion of the means of redress for persons."²⁴

Attitudinal transformations in expectations for compensation for undeserved suffering paralleled or preceded new legal rules providing for greater business responsibility. From the 1960s to the 1980s, businesses were increasingly held civilly liable for injuries with which they were associated.²⁵ Changes in product liability laws, particularly strict liability for defective products,²⁶ not to mention market share liability,²⁷ increased the likelihood of lawsuits and recoveries against businesses.²⁸ Criminal charges against corporations have also increased.²⁹

In addition to new legal doctrines and practices and public expectations about business compensation for individual suffering, businesses appear to be using civil litigation to resolve disputes among themselves with greater frequency. In 1963, Stewart Macaulay published an influential study of dispute resolution in the business world, which showed that large manufacturers were quite reluctant to employ the courts to resolve their disputes.³⁰ Recently, however, Marc Galanter³¹ has re-

22. L. FRIEDMAN, *TOTAL JUSTICE* (1985). See also J. LIEBERMAN, *THE LITIGIOUS SOCIETY* (1981) (increasing use of judicial standards to resolve disputes reflects inability of legislatures to implement, by means of specific rules, a collectivist policy of compensating all injuries).

23. J. COLEMAN, *THE ASYMMETRIC SOCIETY* (1982).

24. *Id.* at 22.

25. R. EPSTEIN, C. GREGORY, & H. KALVEN, *supra* note 18; Bush, *Between Two Worlds: The Shift from Individual to Group Responsibility in the Law of Causation of Injury*, 33 UCLA L. REV. 1473, 1480-86 (1986).

26. *E.g.*, *Greenman v. Yuba Power Prod. Inc.*, 59 Cal. 2d 57, 377 P.2d 897, 27 Cal. Rptr. 697 (1963); RESTATEMENT (SECOND) OF TORTS § 402A (1964).

27. *E.g.*, *Sindell v. Abbott Laboratories*, 26 Cal. 3d 588, 607 P.2d 924 (1980), *cert. denied*, 449 U.S. 912 (1980).

28. See G. EADS & P. REUTER, *DESIGNING SAFER PRODUCTS: CORPORATE RESPONSES TO PRODUCT LIABILITY LAW AND REGULATION* 13-51 (1983); Priest, *The Invention of Enterprise Liability: A Critical History of the Intellectual Foundations of Modern Tort Law*, 14 J. LEGAL STUD. 461 (1985).

29. 1 K. BRICKEY, *supra* note 2, at 1-8.

30. Macaulay, *Non-Contractual Relations in Business: A Preliminary Study*, 28 AM. SOC. REV. 55 (1963).

31. Galanter, *The Life and Times of the Big Six; or, The Federal Courts Since the Good Old Days*, 1988 WIS. L. REV. 921.

ported data indicating significant increases over the last two decades in federal court filings in a variety of forms of commercial litigation, including contract disputes, intellectual property litigation, and bankruptcy cases.³² In some jurisdictions, juries are deciding more business cases as well. Peterson analyzed state and federal jury trials in Cook County, Illinois and San Francisco, California, from 1960 to 1984.³³ Jury trials in business/contract cases increased notably over the two decades in both jurisdictions.³⁴

Despite the overall trend toward greater business presence and liability in the courts, there have been concerted efforts to limit business liability in recent years. During the tort reform movement of the 1980s, tort reform working groups called for changes that in many instances would limit the liability of collective entities. For example, the Tort Policy Working Group of the U. S. Attorney General recommended that manufacturers not be held liable for unknown hazards of their products, that joint and several liability be abolished, and that non-economic damages be limited to \$100,000.³⁵ An American Bar Association Committee recommended modification of the joint and several liability doctrine, which was perceived to work to the disadvantage of large resource-rich businesses.³⁶ Insurance and business groups successfully lobbied state legislatures to enact laws limiting business liability and damages.³⁷ Overall, however, from both long range and short term perspectives, questions of business and corporate responsibility are more likely than ever before to be adjudicated in the courts.

III. THE IMPORTANCE OF PUBLIC OPINION ABOUT CORPORATE WRONGDOING

Case law and model rules contain legal templates for responsibility within corporate and business groups—the liability of directors, shareholders, management, and so on. Model Penal Code provisions re-

32. *Id.* at 925.

33. M. PETERSON, CIVIL JURIES IN THE 1980S: TRENDS IN JURY TRIALS IN CALIFORNIA AND COOK COUNTY ILLINOIS (1987).

34. *Id.* at 11.

35. TORT POLICY WORKING GROUP, CAUSES, EXTENT AND POLICY IMPLICATIONS OF THE CURRENT CRISIS IN INSURANCE AVAILABILITY AND AFFORDABILITY 60-75 (1986).

36. ACTION COMMISSION TO IMPROVE THE TORT LIABILITY SYSTEM, AM. BAR ASS'N, REPORT TO THE HOUSE OF DELEGATES 20-25 (1987). For an excellent discussion of the contemporary tort reform movement, see RABIN, *Some Reflections on the Process of Tort Reform*, 25 San Diego L. Rev. 13 (1988). Rabin served as the reporter to the ABA Commission.

37. Hilder, *Tort Wars: Insurers' Push to Limit Civil Damage Awards Begins to Slow Down*, Wall Street J., Aug. 1, 1986, at A1, col. 6 (describes state actions to limit liability claims, but argues that the new laws are not likely to provide substantial benefits to insurers or consumers).

garding corporate liability have been published.³⁸ The drafters recommended holding corporations liable under a restricted range of circumstances, usually when offensive conduct is performed or authorized by officers of the corporation.³⁹ Yet the federal courts have adopted a much more expansive view of corporate liability, even holding corporations liable for misbehavior by subordinates acting against the express instructions of superiors.⁴⁰ Which of these sets of responsibility rules for corporate liability come closest to matching lay notions of responsibility?

Given the emergence of legal theories of corporate liability and extensive analysis of relevant cases in law reviews, there is surprisingly little systematic theoretical work in psychology on attitudes toward group and corporate responsibility. Scholarly analyses of corporate responsibility often imply that attitudinal shifts among judges and members of the public account for changes in legal doctrine and practices.⁴¹ Yet there is no explicit documentation or thorough understanding of the content and structure of these attitudes nor the nature and impact of such attitudinal shifts. What are the public's views of the responsibility of groups such as businesses and corporations? What shapes and influences these views? What knowledge does psychology have to contribute to our understanding of these judgments of responsibility?

Before considering these questions, it is important to recount the theoretical and practical justifications for studying public views of corporate responsibility. Psychologists have studied the links between attitudes and other behavior for many years. A substantial amount of that work has examined when the expression of attitudes will or will not be associated with related behavior.⁴² Sometimes there is a positive relationship between attitudes and behavior, but under other cir-

38. MODEL PENAL CODE § 2.07 (Proposed Official Draft 1962). See Brickey, *Rethinking Corporate Liability Under the Model Penal Code*, 19 RUTGERS L.J. 593 (1987).

39. As Brickey summarizes, the Code would hold a corporation accountable for misconduct by agents under the following conditions:

(1) the offense is a minor infraction; (2) the offense is defined by a statute that expresses a clear legislative intent to hold corporations liable for the acts of their agents generally; (3) the offense consists of non-feasance; or (4) the offense is performed, authorized or recklessly tolerated by the board of directors or a high managerial agent acting on behalf of the corporation and within the scope of his employment.

1 K. BRICKEY, *supra* note 2, at 47 (footnotes omitted).

40. *Id.* at 46, 54-58.

41. See Friedman, *supra* note 22; Bush, *supra* note 25. In contrast, Priest, *supra* note 28, at 463-64, gives little weight to social factors, instead ascribing changes in tort doctrine to shifts in tort law scholarship within the academic community.

42. A classic article is Wicker, *Attitudes versus Actions: The Relationship of Verbal and Overt Behavioral Responses to Attitude Objects*, 25 J. SOC. ISSUES 41 (1969). See generally ATTITUDES AND BEHAVIOR (K. Thomas ed. 1971); I. AJZEN & M. FISHBEIN, UNDERSTANDING ATTITUDES AND PREDICTING SOCIAL BEHAVIOR (1980).

cumstances the linkages are more ephemeral.⁴³

It is thus worth noting that public attitudes do appear to influence substantive law and legal procedure both directly and indirectly. Legislators respond to shifts in public attitudes by enacting new laws.⁴⁴ Potential plaintiffs base their decisions to bring lawsuits on their definitions of wrongdoing,⁴⁵ while prosecutors consider public attitudes in deciding whether to charge someone with a crime.⁴⁶ Public opinion can also influence judicial selection.⁴⁷ Legal Realists have long argued that judicial interpretation is affected not only by fidelity to legal doc-

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43. See I. AJZEN & M. FISHBEIN, *supra* note 42, for an analysis of when the relationship between expressed attitudes and actual behavior will be strongest.
 44. Converse, *Changing Conceptions of Public Opinion in the Political Process*, 51 PUB. OPINION Q. S12 (1987); Page & Shapiro, *Effects of Public Opinion on Policy*, 77 AM. POL. SCI. REV. 175 (1983) (showing links between shifts in public opinion and legislative change). *Contra* Gibson, *Political Intolerance and Political Repression During the McCarthy Red Scare*, 82 AM. POL. SCI. REV. 511 (1988). Gibson showed that although there was a positive relationship between mass public intolerance and the adoption of repressive laws by the states during the McCarthy era, the relationship between elite intolerance and legal repression was stronger. Other analyses indicated that variation in elite opinion (but not mass public opinion) was linked to the passage of repressive legislation. Gibson concluded that although there is no simple relationship between mass opinion and law passage, mass "[o]pinion is important in the policy process because it delimits the range of acceptable policy alternatives." *Id.* at 522.
 45. The dispute resolution literature shows that people first define or "name" a dispute, then assign blame, and then decide whether or not to pursue the claim in court. Thus people's subjective views of the wrongfulness of events or actions are critically important to their decisions to go forward with lawsuits. Felstiner, Abel, & Sarat, *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming...*, 15 LAW & SOC'Y. REV. 631 (1980-81). People vary in their definitions of when a dispute has occurred, and in their willingness to bring disputes to court. Vidmar & Schuller, *Individual Differences and the Pursuit of Legal Rights: A Preliminary Inquiry*, 11 LAW & HUM. BEHAV. 299 (1987) (documenting differences among individuals in the extent to which they perceive disputes and act upon legal claims).
 46. J. JACOBY, *THE AMERICAN PROSECUTOR: A SEARCH FOR IDENTITY* (1980); Pritchard, *Homicide and Bargained Justice: The Agenda-Setting Effect of Crime News on Prosecutors*, 50 PUB. OPINION Q. 143 (1986).
 47. In 23 states, most or all judges are elected by the public, while in 18 others the public votes in judicial retention elections. AMERICAN COURT SYSTEMS 281 (S. Goldman & A. Sarat 2d ed. 1989). For discussion of problems with popular election of judges see Champagne, *Judicial Reform in Texas*, 72 JUDICATURE 146 (1988); Wold & Culver, *The Defeat of the California Justices: The Campaign, The Electorate, and the Issue of Judicial Accountability*, 70 JUDICATURE 348 (1987), who found in opinion surveys that voters considered the California Supreme Court Justices' alleged leniency toward criminal defendants generally and the death penalty in particular as important factors in their decision to vote against retention for the justices. Furthermore, even though the public does not vote on federal judicial appointments, public opinion concerning the unsuccessful U.S. Supreme Court nominee Robert Bork was reported to have influenced the confirmation process. See Bloustein, *Did the "Bork Case" Change the Meaning of Our Constitution?*, 72 JUDICATURE 145 (1988).

trine but also by the judges' attitudes.⁴⁸ And perceptions of the legitimacy of the legal system affect compliance with the law.⁴⁹

The public's influence is most directly observed in the institution of the jury, whose verdicts reflect community sentiments.⁵⁰ Jury verdicts in turn have multiple influences on the operation of the civil and criminal justice systems.⁵¹ Therefore, the study of lay views of law is critical to understanding the broader interrelationships among law and social institutions. As legal doctrine and public policy on corporate wrongdoing continue to develop, public attitudes are certain to play a critical role in shaping the law. Psychological theory and research methodology could make important contributions to an understanding of how people evaluate corporate and business responsibility in the changing legal landscape.

IV. SOURCES OF DISTINCTIVE RESPONSES TO CORPORATE WRONGDOING

A. Attitudes toward Businesses and Corporations

In exploring determinants of public reaction to corporate wrongdoing, one of the first matters to consider is the role of individual attitudes toward business. Such attitudes might well influence the perception and treatment of business and corporate wrongdoing. Pro-business or anti-business attitudes, coupled with beliefs about the appropriate role business should play in compensation for harms, may predispose members of the public toward particular views of business wrongdoing. As with the study of other attitudes and related behaviors, simply because positive or negative attitudes are expressed does not mean that people will behave in corresponding ways under all circumstances. Nevertheless the probability of congruent behavior makes it worthwhile to examine the content of public opinion about business.

The public shows a curious schizophrenia in its attitudes toward

48. See, e.g., Llewellyn, *A Realistic Jurisprudence: The Next Step*, 30 COLUM. L. REV. 431 (1930). Llewellyn argued for the study of the behavior of judges, contrasting the "paper rules" of law with actual judicial behavior.

49. T. TYLER, *WHY PEOPLE OBEY THE LAW* (1990) (showing that people are more willing to comply with law if they view legal and political authorities as legitimate and fair).

50. V. HANS & N. VIDMAR, *JUDGING THE JURY* (1986); H. KALVEN & H. ZEISEL, *THE AMERICAN JURY* (1966); S. KASSIN & L. WRIGHTSMAN, *THE AMERICAN JURY ON TRIAL* (1988); R. SIMON, *THE JURY: ITS ROLE IN AMERICAN SOCIETY* (1980). For a discussion of how jury decision making might be influenced by jurors' attitudes toward business see Hans, *The Jury's Response to Business and Corporate Wrongdoing*, LAW & CONTEMP. PROBS. (in press).

51. Galanter, *Jury Shadows: Reflections on the Civil Jury and the "Litigation Explosion"*, in *THE AMERICAN CIVIL JURY 15* (Roscoe Pound-American Trial Lawyers Foundation 1987).

business. There is no question that the majority of the American public is supportive of business in the abstract. Most members of the public believe that business makes valuable contributions to the welfare of society and is generally beneficial. For instance, 86% of the respondents in one public opinion poll said that they viewed business favorably.⁵² Respondents asked to rank major institutions in society placed business and industry behind the churches, but ahead of educational institutions, the press, and the United States Supreme Court.⁵³ In a May 1989 Business Week/Harris poll, 62% of the respondents agreed that American business should be given a majority of the credit for the prosperity that has prevailed during most of the 1980s.⁵⁴ Six out of ten of these respondents rated the overall performance of American corporations as "excellent" or "pretty good."⁵⁵

However, surveys show equally strong and widely shared views about the down side of American business. People fear the concentration of power and have low regard for the ethics of corporate executives.⁵⁶ In a 1986 New York Times survey respondents were asked: "There's been a lot of news recently about individuals and corporations committing white collar crimes to make a profit for themselves and their companies. How often do you think this happens in American business?" Fifty-six percent of the respondents thought that it happened "very often."⁵⁷ In another poll 55% of the respondents described most corporate executives as "not honest."⁵⁸ Significant numbers of the respondents surveyed in the Business Week/Harris Poll believed that business would engage in a variety of harmful activities to turn a profit, including harming the environment (47%), endangering public health (38%), selling unsafe products (37%), putting workers' health and safety at risk (42%), and deliberately charging inflated

52. Roper & Miller, *Americans Take Stock of Business*, 8 PUB. OPINION 12 (1985).

53. *Id.*

54. *The Public is Willing to Take Business On*, BUS. WK., May 29, 1989, at 29.

55. *Id.* See also S. LIPSET & W. SCHNEIDER, *THE CONFIDENCE GAP: BUSINESS, LABOR, AND GOVERNMENT* 285-89 (rev. ed. 1987) for a summary of other survey findings that demonstrate strong general support for free enterprise.

56. Negativity toward corporations has a long history. Writing about American anti-corporate sentiment during the early years of the nineteenth century, Friedman observes that:

The word "soulless" constantly recurs in debates over corporations. Everyone knew that corporations were really run by human beings. Yet the metaphor was not entirely pointless. Corporations did not die, and had no ultimate limit to their size. There were no natural bounds to their life or to their greed. Corporations, it was feared, could concentrate the worst urges of whole groups of men; the economic power of a corporation would not be tempered by the mentality of any one person, or by considerations of family or morality.

L. Friedman, *supra* note 16, at 194.

57. *Opinion Roundup*, 9 PUB. OPINION 22 (1986).

58. *Id.*

prices (62%).⁵⁹ Perhaps because they were concerned about the deleterious consequences of concentrated authority, seven out of ten of these respondents agreed that "business has gained too much power over too many aspects of American life."⁶⁰

It has long been asserted that, when it comes to sanctions for harmdoing, businesses and corporations are treated more leniently than ordinary folk. For a number of years, academic scholars vigorously debated whether or not big business was advantaged, and whether official as well as public reactions toward corporate wrongdoing were excessively lenient.⁶¹ In Schrager and Short's classic theoretical article on organizational crime, they noted the existence of the belief in excessive tolerance and speculated that if it existed it might be due to the diffuse, economic harm characteristic of most business wrongdoing, compared to the focused bodily harm of some individual crime.⁶²

Sociological studies of crime seriousness ratings put the argument that corporations and businesses are treated leniently to the test. By asking respondents to rate the seriousness of a large number of different crimes (some more characteristic of "street crime," and others typical of "suite crime"), researchers were able to examine the rankings for evidence of systematic tolerance of corporate crime.⁶³ This work failed to discover evidence of leniency toward business crime. In Michael Levi's thoughtful review of the research findings, he noted that white-collar crimes involving actual or even potential physical harm were judged very seriously by the public.⁶⁴ The evidence thus on the whole supported Schrager and Short's insight that it was the nature of the wrongdoing rather than the favorable position of business that contributed to apparent public tolerance of business wrongdoing.

There is some evidence that public attitudes toward business have

59. *The Public is Willing to Take Business On*, *supra* note 54.

60. *Id.*

61. See, e.g., E. SUTHERLAND, *WHITE-COLLAR CRIME: THE UNCUT VERSION* (1983) (original publication in 1949 as *WHITE-COLLAR CRIME*).

62. Schrager & Short, *Toward a Sociology of Organizational Crime*, 25 *SOC. PROBS.* 407 (1978).

63. Rossi, Waite, Bose, & Berk, *The Seriousness of Crimes: Normative Structure and Individual Differences*, 39 *AM. SOC. REV.* 224 (1974); Schrager & Short, *How Serious a Crime? Perceptions of Common and Organizational Crimes*, in *WHITE-COLLAR CRIME: THEORY AND RESEARCH* 14-31 (G. Geis & E. Stotland ed. 1980) (reanalyzing Rossi, Waite, Bose & Berk's 1974 data); Wolfgang & Figlio, *Weighing Social Responsibility: How Perceptions Differ for Individual and Corporate Crimes*, 1985 *WHARTON ANN.* 32 (1985); M. WOLFGANG, R. FIGLIO, P. TRACY, & S. SINGER, *THE NATIONAL SURVEY OF CRIME SEVERITY* (U.S. Department of Justice 1985).

64. M. LEVI, *REGULATING FRAUD: WHITE-COLLAR CRIME AND THE CRIMINAL PROCESS* 59-64 (1987).

taken a negative turn in recent years. Francis Cullen, William Maakestad, and Gray Cavender maintain that social and political events of the 1970s and 1980s undermined public confidence in major institutions and led the public to become increasingly willing to sanction those in power.⁶⁵ Indeed, Lipset and Schneider reviewed survey evidence and discovered a decrease in general public support for big business and business leaders.⁶⁶ Compared to earlier times, Americans are now less confident in business.

It would be tempting to conclude that identifiable pro-business or anti-business subgroups exist in the population. Although people clearly differ in their views toward business, such a unidimensional explanation is too simplistic and fails to account for the intricacies of the data from different polls. The divergent views of business apparent in public opinion polling suggest that attitudes toward business are complex and multidimensional.⁶⁷ Individuals appear to evaluate business along a variety of dimensions, and persist in holding seemingly contradictory cognitions about its merits.

B. Distinctive Features of Businesses and Corporations

1. *Individuals versus Corporations*

Independent of general attitudes toward business, a number of features of the typical business or corporation exist that may have important effects on judgments of wrongdoing. Several characteristics differentiate the typical corporation and the typical individual. As noted above, violations of corporations and individuals frequently differ: The focused bodily harm associated with street crime offenses by individuals elicits more punitive reactions than the diffuse economic harm characteristic of much corporate wrongdoing. On the other hand, because of matters of scale, corporations often possess the potential to harm more people. As the crime seriousness studies demonstrate, the greater the harm—even the potential harm—the more punitive the reaction.⁶⁸

Corporations also typically tend to have greater financial resources than individuals. A number of commentators have claimed that perceptions of ample financial resources may activate the “deep pockets” effect, whereby juries increase the awards of plaintiffs suing corpora-

65. F. CULLEN, W. MAAKESTAD, & G. CAVENDER, *CORPORATE CRIME UNDER ATTACK* (1987).

66. S. LIPSET & W. SCHNEIDER, *supra* note 55.

67. Roper & Miller, *supra* note 52, agree with this assessment. Writing in 1985 about public opinion concerning business, they concluded that “the public (or most of it at least) didn’t hate business ten years ago and doesn’t love business now. The public’s attitudes toward business . . . are complex and ambivalent.” *Id.* at 15.

68. M. LEVI, *supra* note 64, at 60. See generally Rossi, Waite, Bose & Berk, *supra* note 63; M. WOLFGANG, R. FIGLIO, P. TRACY, & S. SINGER *supra* note 63.

tions because they believe that the corporate deep pockets can afford it.⁶⁹

Businesses and corporations may also possess superior resources in nonfinancial arenas. Corporations are organized in a hierarchical structure, and populated by individuals with specialized skills and responsibilities. There may exist a presumption that the corporation, with all of these intellectual resources, can function in a more thoughtful, forward-looking way than the individual.

Related to this is the fact that a corporation is a group rather than one individual. Judgments about group and individual responsibility are likely to differ. Individuals may readily empathize with other individuals but find it difficult to do so with corporations.⁷⁰ Furthermore, psychological research studies suggest that groups will be attributed greater responsibility, on the whole, than similarly situated individuals, particularly for events with serious consequences. Several studies have demonstrated that more responsibility is attributed to an individual whose actions lead to a severe as opposed to a mild outcome.⁷¹ When extreme events occur, people tend to infer that substantial causes (or "multiple necessary causes," in the language of attribution theory) must have been present. Therefore, in the face of an extremely negative event, people may search for group rather than individual level causes. In studying why conspiracy theories of presidential assassinations are so popular, McCauley and Jacques concluded that groups are seen as more effective than individuals, and thus more capable of successfully assassinating a nation's chief

69. P. HUBER, *LIABILITY: THE LEGAL REVOLUTION AND ITS CONSEQUENCES* (1988). See also *infra* notes 73-81 and accompanying text (discussion of deep pockets).

70. Shaver writes:

A perceiver who can imagine being in the actor's circumstances is more 'familiar' with the setting, and consequently more likely to understand the constraints on action. In the same fashion, a perceiver who is personally similar to the actor will be better able to take that actor's viewpoint

...

K. SHAVER, *THE ATTRIBUTION OF BLAME: CAUSALITY, RESPONSIBILITY, AND BLAMEWORTHINESS* 135 (1985). But see Lerner & Miller, *Just World Research and the Attribution Process: Looking Back and Ahead*, 85 *PSYCHOLOGICAL BULL.* 1030 (1978) (reviewing research showing that the belief in a just world may create defensive judgments, whereby observers blame highly similar crime victims for their own misfortune).

71. See, e.g., Walster, *Assignment of Responsibility for an Accident*, 3 *J. PERSONALITY & SOC. PSYCHOLOGY* 73 (1966). But see Shaver, *Defensive Attribution: Effects of Severity and Relevance on the Responsibility for Accidents*, 14 *J. PERSONALITY & SOC. PSYCHOLOGY* 101 (1970), which failed to replicate this effect. For discussions of the empirical literature examining the severity effect see Fincham & Jaspars, *Attribution of Responsibility: From Man the Scientist to Man as Lawyer*, in *ADVANCES IN EXPERIMENTAL SOC. PSYCHOLOGY* (L. Berkowitz ed. 1980); Karlovac & Darley, *Attribution of Responsibility for Accidents: A Negligence Law Analysis*, 6 *SOC. COGNITION* 287 (1988).

officer.⁷²

Some evidence that corporate and business groups are treated differently than individuals for comparable behaviors comes from a Rand Corporation study of jury verdicts in Cook County, Illinois, during the 1960s and 1970s.⁷³ In cases involving severely injured plaintiffs, corporate and governmental defendants were more likely to be held liable for injuries and to be assessed larger compensatory damage awards than individual defendants.⁷⁴ Curiously, such effects were not found for moderately injured plaintiffs.⁷⁵

There are a number of potential explanations for this pattern of results. One is that juries were motivated by their perceptions of the "deep pockets" of the defendant, and determined the awards based in part on their assumptions about the greater financial resources of corporate and governmental defendants. But alternative explanations cannot be ruled out. The cases brought against individuals and against businesses may not have been comparable in important ways. Settlement practices, legal theories about defendant liability, the number of claims within a lawsuit, or the types of injuries may have all differed. These different features of the cases may have contributed to the verdicts and higher awards.⁷⁶

More direct evidence that corporations elicit judgments of wrongdoing that are distinct from the judgments of individuals is contained in an experimental study.⁷⁷ The study examined whether, even if corporations engaged in the same behaviors, they would be judged differently than individuals. The authors developed a scenario in which some workers were harmed by clearing debris from an empty lot. The debris was later found to include toxic waste. Respondents were asked to evaluate and judge the responsibility of the key actors in the scenario. Half the respondents read a scenario in which the workers were hired by a "Mr. Jones," while the other half read the otherwise identical scenario in which the workers were hired by the "Jones Corporation."

72. McCauley & Jacques, *The Popularity of Conspiracy Theories of Presidential Assassination: A Bayesian Analysis*, 37 J. PERSONALITY & SOC. PSYCHOLOGY 637 (1979). This helps to explain the focus on the Exxon Corporation rather than the tanker captain in assigning responsibility for the massive Alaskan oil spill. See *supra* notes 11-12 and accompanying text.

73. A. CHIN & M. PETERSON, *DEEP POCKETS, EMPTY POCKETS: WHO WINS IN COOK COUNTY JURY TRIALS* (1985).

74. *Id.* at Table 4.4 (liability), Table 4.5 (median awards), and Figure 4.1 (expected median awards).

75. *Id.*

76. *Id.* See R. MACCOUN, *GETTING INSIDE THE BLACK BOX: TOWARD A BETTER UNDERSTANDING OF CIVIL JURY BEHAVIOR* 34-36 (1987) (presents an interesting discussion of various explanations for defendant identity effects).

77. Hans & Ermann, *Responses to Corporate Versus Individual Wrongdoing*, 13 LAW & HUM. BEHAV. 151 (1989).

The results of the experiment were dramatic. Respondents who read the Jones Corporation version were significantly more likely to hold the defendant morally and legally responsible for the workers' injuries from clearing the toxic waste than respondents who read the Mr. Jones version. Respondents saw the corporation as more reckless, more likely to have known beforehand that the workers might be harmed, and more blameworthy.⁷⁸

Respondents in the study were also asked for their judgments of the civil liability and criminal responsibility of Jones for the events. They found the Jones Corporation more civilly and criminally culpable than Mr. Jones. Compensatory awards to the plaintiffs suing the Jones Corporation were significantly greater than the awards to plaintiffs suing Mr. Jones.⁷⁹

Additional analyses led the authors to attribute these results to the respondent's greater expectations of the corporation rather than to respondents' perceptions of the "deep pockets" of the corporation.⁸⁰ In multiple regression analyses, the investigators attempted to determine to what extent the respondents' judgments of civil liability, criminal culpability, and award could be predicted from their perceptions of the defendant's recklessness, the defendant's financial resources, harm to the workers, and the probability of deterrence. The most important factor underlying judgments of criminal and civil culpability was the respondent's perception of the defendant's recklessness. The authors concluded that:

respondents made assessments of recklessness within the specific context of individual or corporate misbehavior, apparently applying a different standard of care to the two types of actors. Those recklessness judgments then determined their decisions about criminal and civil culpability and the total award. Other considerations such as financial resources and deterrence appeared to play only a modest independent role.⁸¹

The overall pattern of results from the experiment thus appeared to indicate that respondents had higher expectations of the corporate defendant than of the individual. Whether the greater expectations stemmed from an alternative standard for evaluating corporate responsibility or from prejudice against corporations could not be determined.⁸² Current research is attempting to tease out the factors that produced this effect.⁸³ It does appear that, for a variety of reasons, the

78. *Id.* at 158.

79. *Id.* at 157. The average total award to the Mr. Jones plaintiffs was \$151,584, whereas the average total award to the Jones Corporation plaintiffs was \$247,610. *Id.*

80. *Id.* at 159-61.

81. *Id.* at 161 (emphasis deleted).

82. *Id.* at 163.

83. The National Science Foundation funded two research programs in 1989 on lay judgments of corporate responsibility: V. HANS, PUBLIC VIEWS OF CORPORATE RE-

responsibility of corporate and individual litigants is judged in divergent ways.

2. *Differences Among Businesses and Corporations*

The issue of differences among corporations is closely related to the above discussion comparing individuals with corporations. As people judge responsibility, what factors of corporations are important? For example, do judgments about responsibility issues in large business enterprises differ fundamentally from judgments about culpability in smaller businesses?

From a psychological perspective, the size of a business organization is likely to create distinctive reactions.⁸⁴ It may be easier for individuals to empathize with smaller companies, particularly those run by identifiable individuals (such as sole proprietorships or family-owned businesses) than larger, more faceless, highly bureaucratic organizations. Financial resources of smaller companies may be more modest, and expectations for compensation for harmdoing may be correspondingly more moderate. The nonfinancial resources of small corporations are likely to be modest as well, and thus may not trigger the seemingly higher expectations of corporate behavior found in the Jones Corporation experiment. Finally, the fear of concentrated power of big business evident in the public opinion polls⁸⁵ is unlikely to be aroused by small companies. For all these reasons, reactions to the wrongdoing of small corporations may be more similar to reactions to wrongdoing by individuals than to judgments of the harmdoing of large corporations.

These hypotheses about the impact of organizational size receive some support from public opinion data that show smaller companies are evaluated more positively than larger companies. In a 1985 poll, 93% of the respondents rated small business companies favorably, compared to 71% who gave favorable ratings to large business corporations.⁸⁶

In addition to size, a specific corporation's reputation and the popularity or social utility of the product that a company manufactures

SPONSIBILITY FOR WRONGDOING; R. MACCOUN, UNDERSTANDING CIVIL JURY VERDICTS IN PERSONAL INJURY CASES.

84. Size has been the focus of a number of social psychological theories and research studies. Latane posits that group size is one of the key variables determining how much impact a group will have. Latane, *The Psychology of Social Impact*, 36 AM. PSYCHOLOGIST 343, 344 (1981). Researchers have undertaken a number of studies of the effects of a group's size. See, e.g., D. KATZ & R. KAHN, *THE SOCIAL PSYCHOLOGY OF ORGANIZATIONS* 106-18 (2d. ed. 1978); S. WILSON, *INFORMAL GROUPS* 16-18 (1978); Zander, *The Psychology of Group Processes*, in 30 ANN. REV. OF PSYCHOLOGY 417, 444-46 (1979).

85. See *supra* notes 56-60 and accompanying text.

86. Roper & Miller, *supra* note 52, at 12-13.

could influence judgments in particular cases. Surveys show consistent differences among types of companies in public favorability ratings, with oil and tobacco companies consistently rated most negatively and food and banking industries rated most positively.⁸⁷ Characteristics associated with positive ratings included perceptions that the companies were doing a good job serving consumers, that the companies had concern for public health and well-being, and that the industry's practices were ethical.⁸⁸ Individual corporations should be rated favorably to the extent that they have reputations for ethical practices and good service to consumers and the public.

One question unanswered to date is the extent to which specific attitudes about individual corporations significantly influence judgments of their wrongdoing. Certainly corporate public relations efforts are based on the presumption that general goodwill will benefit the corporation if negative events occur. Sociologists David Ermann and Richard Lundman maintain that organizations work hard to develop positive public views in part to counteract potentially negative labels.⁸⁹

The relationship between general attitudes and responsibility judgments should be highest when the content of both converge.⁹⁰ The Jones Corporation study found that respondents' ratings of the ethics of corporate executives did *not* correlate with judgments of wrongdoing for the Jones Corporation.⁹¹ It is possible that had the study asked about a characteristic of the corporation that was linked more closely to the harmdoing (such as care for workers' health and safety), those evaluations would have been associated with case-specific judgments. Similarly, estimates of the ethics of corporate executives might be central to determinations of corporate fraud.

It would be interesting to vary features of corporations, including size, resources, product type, and reputation, and test their impact on judgments of wrongdoing using the Jones Corporation experiment methodology. The manner in which corporate characteristics influence responsibility attributions could thus be ascertained.

87. S. LIPSET & W. SCHNEIDER, *supra* note 55, at 195-97.

88. *Id.* at 195-96.

89. "Most organizations undertake strenuous efforts to escape deviant labels. They anticipate attempts at labeling by building reservoirs of good will useful in countering accusations of deviance." CORPORATE AND GOVERNMENTAL DEVIANCE 24 (M. Ermann & R. Lundman 3d ed. 1987). See also Ermann, *The Operative Goals of Corporate Philanthropy: Contributions to the Public Broadcasting System, 1972-1976*, 25 SOC. PROBS. 504 (1978).

90. This would be consistent with studies of attitude-behavior consistency. See I. AJZEN & M. FISHBEIN, *supra* note 42.

91. Hans & Ermann, *supra* note 77, at 163.

C. Attitudes Toward Personal Versus Social Responsibility

Another factor that affects judgments of business and corporate responsibility is the tendency to give weight to either individual or social factors in attributing causation and responsibility. People differ in their preferences for holding individuals or other factors responsible for harm. As part of their work on jury selection in civil cases involving potential wrongdoing by governmental or corporate entities, staff at the National Jury Project discovered that prospective jurors differed in the extent to which they held individuals or external conditions responsible for events.⁹² At one end of the continuum of views is the "personal responsibility" perspective. Adherents of this approach tend to attribute success and failure to the individual. They emphasize motivation, self-reliance, and personal responsibility for events. They appear to be more likely to blame the victim of a misfortune.

At the other end of the continuum is the "social responsibility" perspective. Devotees of this approach are more likely to give credit for events to environmental and social factors. In cases in which individuals sue businesses, social responsibility adherents may be more likely to attribute culpability to the business, whereas personal responsibility adherents may be more likely to focus on what the individual could have done to prevent the harm.

Psychologists have labeled the strong tendency for observers to hold individuals responsible for events with which they are associated as the "fundamental attribution error."⁹³ As the adjective "fundamental" suggests, many members of the public could be described as personal responsibility adherents. One of the most insightful depictions of such a constellation of attitudes comes from Engel's interviews with members of a rural Illinois community.⁹⁴ Many people expressed hostility to those who sued others for compensation for personal injuries. Engel writes:

To the traditional individualists of Sander County, transforming a personal injury into a claim against someone else was an attempt to escape responsibility for one's own actions. The psychology of contributory negligence and assumption of risk had deep roots in the local culture. The critical fact of personal injuries in most cases was that the victims probably could have prevented them if they had been more careful, even if others were to some degree at fault.⁹⁵

As Galanter notes, however, negativity toward those who engaged the law was limited to personal injury suits. Engel's individualists did not demonstrate hostility to those people involved in lawsuits over con-

92. E. KRAUSS & B. BONORA, *JURYWORK: SYSTEMATIC TECHNIQUES* 13-4 to 13-9 (1987).

93. R. NISBETT & L. ROSS, *HUMAN INFERENCE: STRATEGIES AND SHORTCOMINGS OF SOCIAL JUDGMENT* (1980).

94. Engel, *The Oven Bird's Song: Insiders, Outsiders, and Personal Injuries in an American Community*, 18 *LAW & SOC'Y REV.* 551 (1984).

95. *Id.* at 559.

tract violations.⁹⁶

Just as individuals differ in their preferences for personal or social responsibility, situations can elicit differential judgments of personal or social responsibility. In particular, situations characterized by a substantial degree of personal control by the user of a product should reduce judgments of corporate responsibility, while instances in which an individual has little control over how a product is employed should increase judgments of corporate responsibility. An interesting case in point involves cigarette company litigation over the harmful effects of tobacco. Before 1988, tobacco companies successfully defended themselves during thirty-six years of lawsuits brought by smokers and their families who sought compensation for injuries and death caused by smoking. Interviews with jurors in some of the trials indicated that they were reluctant to hold the tobacco companies liable when smokers knew, or should have known, that smoking was harmful to them.⁹⁷

In 1988, the jury in *Cipollone v. Liggett Group*⁹⁸ broke the tobacco companies' success record. Yet even this plaintiff victory was modest, and, it turned out, short-lived. The jury awarded money not to the estate of the smoker whose cancer death was attributed to smoking, but rather to her widowed husband. Interviews with several of the jurors who served in *Cipollone* revealed that at least four of the six believed that tobacco companies should not be held responsible for the negative health consequences suffered by those who voluntarily smoked.⁹⁹ Furthermore, the Third Circuit Court of Appeals overturned the jury verdict in a complicated opinion, thus restoring the tobacco companies' perfect record.¹⁰⁰

One public opinion poll on reactions to the verdict also showed that the majority of respondents did not believe that the tobacco companies should be held responsible for smoking injuries. Within two weeks of the *Cipollone* jury verdict, I surveyed a convenience sample of 105 Delaware adults about their views of the case. Reactions to the verdict were split, with 39% supporting and 45% opposing the verdict. Respondents showed strong adherence to a "personal responsibility" perspective for smoking. Smokers were seen as fully informed about the

96. Galanter, *supra* note 31, at 945-46.

Thus, all the horror stories about litigation chronicle outlandish or predatory tort or civil rights or family claims, but pass over contracts; they focus on the claims of individuals and ignore those of businesses, government, or other organizations.

Id. (footnote omitted).

97. Gidmark, *The Tobacco Juries—An In-Depth Study*, 10 TRIAL DIP. J. 18 (1987).

98. 693 F. Supp. 208 (D.N.J. 1988).

99. Singer, *They Didn't Really Blame the Cigarette Makers*, THE AM. L., September 1988, at 31.

100. *Cipollone v. Liggett Group, Inc.*, 893 F.2d 541, 58 U.S.L.W. 2411, 10 UCC Rep. Serv. 2d. 625 (3d Cir. 1990).

dangers of smoking; addiction was no excuse. Plaintiffs in tobacco company lawsuits were perceived as "just trying to blame someone else for their problems."

It is interesting to speculate about what kind of situation might lead to judgments of responsibility for the tobacco companies. One likely situation might be lawsuits over negative health consequences from passive or second-hand smoke. Because individuals have little control over the source of the injuries, it is more difficult for observers to adopt a personal responsibility perspective and to blame the victims. More generally, whenever individuals are unaware of the potential dangers of a product and cannot control how the product is employed, personal responsibility attributions are unlikely and social responsibility judgments that a business or corporation is culpable should increase.

The centrality of user knowledge and potential control in judgments of responsibility help to explain the deference in tort law to the presence and adequacy of warnings in cases involving product injuries. As a psychologist auditing a torts class at Stanford Law School, I was perplexed by the emphasis in court decisions over warnings. I knew (and the cases provided eloquent, frequently tragic support) that people often ignored or misread warnings. Why should the presence of an often demonstrably useless line or two on a product be so critical to a case's outcome? My notion of a psychologically sophisticated, "adequate" warning was one that effectively deterred dangerous conduct. However, thinking about warnings in the context of lay judgments of responsibility puts them in a different light. A warning provides an opportunity for the user to learn about the potential dangers of a product and to make a decision about whether or not and how to use the product. It thus facilitates the conditions leading to adoption of the "personal responsibility" perspective—and the judgment that the user, under the reasonable person test, *should have known* that the product was harmful.

D. Judgments of Responsibility within Group Contexts

Determining responsibility for outcomes of group activity is often extremely difficult. The unsuccessful criminal manslaughter prosecution stemming from a triple fatality during the filming of *Twilight Zone—The Movie* illustrates the nature of the challenge. In that case, director John Landis and four others stood trial after a helicopter, damaged by an out-of-control explosion, crashed and took the lives of actor Victor Morrow and two illegally hired child actors.¹⁰¹ Prosecution evidence presented at trial indicated numerous ways in which

101. S. FARBER & M. GREEN, OUTRAGEOUS CONDUCT: ART, EGO AND THE TWILIGHT ZONE CASE (1988).

safety standards on the set had been violated. Yet which of the men on trial were responsible? After the jury acquitted all five men, one deputy district attorney acknowledged the difficulty of proving that individual filmmakers met the gross, wanton, and reckless conduct necessary for a manslaughter conviction.

These were clean-cut individuals—at least for the most part clean-cut—who were trying to make an honest living. The question is, can you prove that they went over the line of legitimacy and respectability? Our point of view is that employers do have a responsibility to their employees. It was our feeling here that we *were* talking about criminal responsibility. . . . We were dealing with something we believe was foreseeable. . . . But most jurors do not want to convict someone for nonintentional harm.¹⁰²

Jurors interviewed after the trial said that even though the defendants were not guiltless, the criteria for involuntary manslaughter simply had not been met.¹⁰³ But they also wondered why the man who had actually set off the fatal explosives that derailed the helicopter had been granted immunity rather than prosecuted. Jurors thought that “he was at least as guilty as the others.”¹⁰⁴ The jurors’ difficulty points out the problems in determining responsibility when tasks are hierarchically divided.

Psychological theory provides relatively few insights into the factors affecting judgments of the responsibility of groups. Much research in the subfield of attribution theory, the study of judgments of causality and responsibility, has focused on how individuals perceive and evaluate the responsibility of other individuals rather than groups.¹⁰⁵ One exception is recent work on category perception, which examines how people perceive social groups. However, this work has to date been oriented around issues of intergroup bias and racial and gender discrimination rather than issues relating to judgments of group responsibility.¹⁰⁶

Psychological experiments have examined how the behaviors and responsibilities of individuals change when they are in groups. For example, one of the classic studies in social psychology demonstrated that responsibility often dissipates within a group context, a phenomenon labeled “diffusion of responsibility.”¹⁰⁷ This lesser sense of responsibility can have a range of discernible consequences. Early work showed that bystanders are less likely to help others in emergencies

102. *Id.* at 331.

103. *Id.* at 324.

104. *Id.* at 322.

105. ATTRIBUTION: PERCEIVING THE CAUSES OF BEHAVIOR (E. Jones, D. Kanouse, H. Kelley, R. Nisbett, S. Valins, & B. Weiner ed. 1972); K. SHAVER, *supra* note 70.

106. Wilder, *Social Categorization: Implications for Creation and Reduction of Intergroup Bias*, in 19 ADVANCES IN EXPERIMENTAL SOC. PSYCHOLOGY (L. Berkowitz ed. 1986).

107. Darley & Latane, *Bystander Intervention in Emergencies: Diffusion of Responsibility*, 8 J. PERSONALITY & SOC. PSYCHOLOGY 377 (1968).

when they are in groups.¹⁰⁸ Later studies demonstrated that people tend to contribute less and perform less assiduously in groups, particularly if their contributions are not identifiable.¹⁰⁹ As the relationship between individual input and group outcomes decreases, it is more difficult to determine who did what and thus who deserves reward or punishment. Individuals are less likely to loaf in groups when they believe that their contributions are identifiable, can make a noticeable difference, or are indispensable.¹¹⁰

The implications of this work for judgments of group and corporate responsibility have not been systematically developed. One might surmise that clearly identifiable lines of authority and responsibility spelled out in corporate charters would counteract potential diffusion of responsibility. If, however, lines of authority and official responsibility for a particular negative outcome are shared or unclear, diffusion of responsibility is likely to result. Perhaps this helps to explain the observation of many organizational sociologists that corporate wrongdoing is not adequately sanctioned because blame is diffused among members of the organization and consequently disappears.¹¹¹

In trying to explain judgments of responsibility in situations governed by authority, Herbert Kelman and Lee Hamilton noted that the traditional psychological models developed by attribution theorists did not seem to adequately capture the forces at work in hierarchically organized social structures.¹¹² As Kelman and Hamilton discuss, the relationships among authorities and subordinates within an organization fundamentally affect judgments of responsibility.¹¹³ In hierarchical organizations, authorities possess the right to give orders, but also retain responsibility for the consequences of actions that they have ordered. Subordinates have a duty to obey orders, but accompanying this duty is a corresponding right to expect that authorities will take

108. *Id.*

109. Latane, *supra* note 84. Psychologists have dubbed the motivational losses and performance decrements in groups "social loafing" or "free rider" effects. A number of interesting studies of the parameters and determinants of these effects have been conducted. See, e.g., Kerr & Brunn, *Dispensability of Member Effort and Group Motivation Losses: Free Rider Effects*, 44 J. PERSONALITY & SOC. PSYCHOLOGY 78 (1983) (demonstrating that group members show less motivation as their efforts are perceived to be less critical for group success); Kerr, *Motivation Losses in Small Groups: A Social Dilemma Analysis*, 45 J. PERSONALITY & SOC. PSYCHOLOGY 819 (1983) (analyzing free rider, social loafing, and sucker effects).

110. Kerr & Brunn, *supra* note 109. For an application of social loafing theory to judicial decision making, see Luskin, *Social Loafing on the Bench: The Case of Calendars and Caseloads*, 12 JUST. SYS. J. 177 (1987).

111. M. ERMANN & R. LUNDMAN, *supra* note 89. See also K. BRICKEY, *supra* note 2, at 99-150 (discussing the problem of ascertaining responsibility within corporate organizations).

112. H. KELMAN & V. HAMILTON, *CRIMES OF OBEDIENCE* 199 (1989).

113. *Id.*

the responsibility should negative outcomes result from the subordinates' actions performed under orders.¹¹⁴ Expectations for the subordinate are often clear, making it obvious when the subordinate has complied or failed to comply with orders. For a subordinate following an order from a higher-up, the obligation to follow the order should reduce attributed responsibility, since the presence of external demands generally reduces judgments of individual responsibility.¹¹⁵

The superior's role, however, possesses a different set of expectations and a distinct rule for responsibility. Kelman and Hamilton argue that superiors are judged by more diffuse standards than subordinates. They must take responsibility for the actions of their subordinates. They are expected to supervise others with "care," "good sense," and similar qualities that have no clear referents.¹¹⁶ Thus, "[a]uthority is associated with relatively strict liability for relatively diffuse expectations."¹¹⁷ Kelman and Hamilton's arguments might seem to suggest that people in positions of authority are attributed *more* responsibility for untoward consequences of group actions. However, as they note, because it is more difficult to determine when standards have been violated, the very diffuseness of the expectations of superiors may protect them when it comes to sanctioning.¹¹⁸ Some support for this may be found in the *status liability* effect, which holds that higher status offenders are sanctioned more severely than lower status offenders when the violation is extreme, but the reverse is true for moderate violations.¹¹⁹ In a mock juror study using college students as subjects, Rosoff varied the status of a criminal defendant (surgeon/dermatologist) and the nature of the offense (murder/Medicaid fraud). Consistent with the status liability hypothesis, he discovered that subjects were more likely to convict the surgeon than the dermatologist of murder, but recommended *fewer* penalties for the surgeon than the dermatologist for Medicaid fraud.¹²⁰ Thus under some cir-

114. *Id.* at 55. The rights to give and obey orders are, of course, not absolute, but are limited to legitimate orders. See *U.S. v. Kinder*, 14 C.M.R. 742 (1954) (a Korean War case in which a senior officer ordered a junior officer to commit a war crime by killing an innocent citizen).

115. K. SHAVER, *supra* note 70, at 109-11, 149-51.

116. E. KELMAN & V. HAMILTON, *supra* note 112, at 202-04.

117. *Id.* at 204.

118. "Bureaucrats and professionals may be normatively bound to higher, diffuse, and forward-looking standards, but there is an escape hatch involved in such standards. Just as it may be difficult to say when they have been met, it is correspondingly difficult to say when they have been seriously violated." *Id.*

119. Rosoff, *Physicians as Criminal Defendants: Specialty, Sanctions, and Status Liability*, 13 LAW & HUM. BEHAV. 231 (1989).

120. *Id.* Although these results are consistent with the status liability hypothesis, it should be noted that subjects were asked to decide guilt in the severe deviance case and punishment in the moderate deviance case, creating a potential confound.

cumstances, high status individuals in authority roles within business organizations may benefit from ambiguity about responsibility.

Kelman and Hamilton's model of responsibility judgments in hierarchical settings, initially developed to account for crimes of obedience in a military context, provides an excellent framework for thinking about norms and legal rules governing responsibility within business/corporate groups. The generalizability of Kelman and Hamilton's theoretical propositions can be tested by examining judgments of legal responsibility for individuals at different levels in the hierarchy of a business organization.

E. Toward a Model of Judgments of Corporate Responsibility

This review of research and theory suggests that a number of psychological factors may influence judgments of corporate responsibility. These factors are integrated into a tentative model of the judgment process. See Figure 1. The model contains several of the attitudinal variables previously discussed, including general attitudes toward businesses and corporations as well as specific attitudes toward a particular corporation, which may be based on its size, reputation, products, or other characteristics. In line with work on the relationship between attitudes and behavior,¹²¹ general and specific attitudes are likely to have at best modest effects on corporate wrongdoing which should be evidenced primarily in cases in which the attitudinal content is relevant to the judgment of wrongdoing (as in the ethics and fraud example given above).¹²² Corporate resources, displayed as a separate influence, include both financial and nonfinancial resources, consistent with the impact of both types of resources on judgments of culpability in prior work. Attitudes toward personal or social responsibility are shown as influencing the evaluation of evidence both directly and indirectly, via judgments of the plaintiff's or the victim's fault, a linkage that is evident from prior research.

The attitudinal and resource factors are displayed as affecting judgments of corporate responsibility by initially influencing the evaluation of causation and fault evidence in the case. This presumption is based on research showing that observers' perceptions of trial evidence are the key mediators and determinants of their judgments of culpability.¹²³

121. I. AJZEN & M. FISHBEIN, *supra* note 42.

122. See *supra* notes 90-91 and accompanying text.

123. Tanford has presented survey data showing that demographic and attitudinal factors often functioned indirectly through the evaluation of evidence rather than as direct impacts on trial verdicts. Tanford, *Survey Research and Jury Selection*, paper presented at the annual meeting of the American Psychological Association, New Orleans, Louisiana (1989). Pennington & Hastie have proposed a story model of juror decision making, arguing that jurors first organize relevant evi-

In considering the evaluation of responsibility of an individual working in a corporation, these factors are joined by an additional variable—the individual's role within the corporation. This relationship accords with research findings by Kelman and Hamilton showing the strong influence of role and authority on judgments of responsibility.¹²⁴

This psychological model is necessarily incomplete and speculative. Most importantly, and by design, it focuses on the psychological factors influencing the judgment process rather than evidence, legal rules, judicial instructions, and other fundamental elements that are necessary to legally link an individual or a corporation to harmful actions. These are now represented only indirectly, through the observers' subjective evaluations of causation and fault evidence. Also ignored for the moment are the potential influences of the type of violation and nature of the complaint being considered. For instance, it is possible that cases involving business-business disputes do not evoke the same kinds of attitudinal influences as do individual-business disputes, or that attitudes toward business are important in personal injury and antitrust cases but not contract disagreements. The lack of sufficient information about the potential impact of these factors makes it impossible to speculate about their impact on judgments of corporate responsibility. As work in this area continues to grow, a more complete model of the judgment process can be anticipated.

V. CONCLUSION

A. Unanswered Questions about Judgments of Corporate Responsibility

This article has described the shift toward holding corporate and business entities culpable for harm, and has outlined factors affecting lay attributions of responsibility. The proposed model of judgments of corporate responsibility, developed on the basis of existing knowledge, can be tested by research that examines the links among the various psychological factors and responsibility judgments.

More questions have been raised than answered in this review, by reflecting the rudimentary state of scientific research on judgments of corporate responsibility. Clearly we need to know far more about the entire process of business disputing and the issues about business and corporate responsibility that are most frequently adjudicated by the

dence into a coherent story, then match the story to the verdict category with the closest fit. Pennington & Hastie, *Evidence Evaluation in Complex Decision-Making*, 51 J. PERSONALITY & SOC. PSYCHOLOGY 242 (1986). See generally S. KASSIN & L. WRIGHTSMAN, *THE PSYCHOLOGY OF EVIDENCE AND TRIAL PROCEDURE* 8-9 (1985)(arguing that despite much psychological research on extra-legal variables, the evidence and courtroom procedure remain the most crucial determinants of trial outcomes).

124. *Supra* notes 112-18 and accompanying text.

courts. At the University of Wisconsin, a research project examining business disputing is currently underway, and promises to provide more information about businesses' contemporary use of the courts.¹²⁵ This type of work can help shape systematic research on corporate responsibility by alerting researchers to the most important issues in business law.

This review indicates that people have complex and sometimes apparently contradictory views of business. We need to begin to take a closer look at the multidimensionality of attitudes toward business rather than operating on the assumption that there exists a unitary continuum of pro-business/anti-business sentiment. It would also be useful to develop a "taxonomy" of corporations, and to determine what features—size, profit status, product type, reputation—affect judgments of responsibility.

As for other attitudes that affect judgments of corporate responsibility, the strong tensions between personal and social responsibility attributions deserve further investigation. What life history, demographic, and attitudinal factors predispose people to adopt a social responsibility perspective in judging causality? What kinds of situations and types of cases are most likely to elicit such judgments? There is evidence that at least some of the populace directs feelings of hostility against those who bring personal injury lawsuits. Are there equivalent animosities in other types of cases, and do they affect people's willingness to hold business accountable?

We still do not know exactly why people adopt a seemingly distinctive standard for corporate as opposed to individual responsibility.¹²⁶ Future research varying the defendant's identity can gauge the generalizability and contours of the phenomenon and determine the causes of differential responding.

I concur with Kelman and Hamilton's observation that contemporary psychological theory about judgments of responsibility within hierarchical contexts needs further development.¹²⁷ Systematic analysis of corporate responsibility judgments can make a contribution not only to the law and society field but also to basic theory in social, organizational, and political psychology. Collective responsibility issues arise with a variety of groups and organizations, such as governments, political parties, voluntary associations, and even the Mafia. Furthermore, the responsibility of groups is an important matter in the criminal justice system in cases involving conspiracy, complicity, and

125. Galanter, Macaulay, Palay, & Rogers, *The Transformation of American Business Disputing* (Disputes Processing Research Program, University of Wisconsin, Jan. 5, 1989)(unpublished manuscript).

126. *Id.* at § B1.

127. *Supra* notes 112-18 and accompanying text.

accessories to crime.¹²⁸ Thus the study of reactions to corporate wrongdoing has the potential for broader significance and increased understanding of views of collective responsibility in these other contexts.

B. New Directions for Psycholegal Research

This article has focused on the dynamics of lay judgments of corporate responsibility. However, it is worth concluding the article with the observation that the general topics of corporate and business law constitute a rich lode of research questions and ideas. Many of these issues have clear psychological content or implications, but most have yet to be systematically examined by psycholegal researchers.

General theory about human behavior may provide a useful background for considering the appropriateness and efficacy of legal rules and regulations governing corporations. The effective deterrence of corporate misconduct, now being studied by legal scholars and sociologists, could be enhanced by the application of psychological theory.¹²⁹ Tomkins, Victor, and Adler analyzed corporate decision making about high risk projects using insights about risk judgments and decision making derived from extensive research in social, cognitive, and organizational psychology.¹³⁰ They concluded that this research base could be useful in helping to regulate corporate risk. Psychological theory may also be used to improve resolution of business disputes. For instance, procedural justice principles have been employed to develop methods for business negotiation and the handling of consumer complaints.¹³¹

In addition to these more general uses of psychological theory, experimental research techniques may also be used directly by the courts to evaluate the competing claims of parties. Diamond employed systematic research techniques to test parties' claims in deceptive advertising cases.¹³² She presented different versions of a commercial advertisement to different groups of subjects, compared their understanding of the product, and concluded that the ad in question was deceptive in its impact. Glucksburg has drawn on cognitive

128. J. KAPLAN & R. WEISBERG, *CRIMINAL LAW: CASES AND MATERIALS* 577-749 (1986).

129. See, e.g., J. BRAITHWAITE, *CRIME, SHAME AND REINTEGRATION* (1989); J. BRAITHWAITE, *TO PUNISH OR PERSUADE: ENFORCEMENT OF COAL MINE SAFETY* (1985); B. FISSE & J. BRAITHWAITE, *THE IMPACT OF PUBLICITY ON CORPORATE OFFENDERS* (1983).

130. Tomkins, Victor, & Adler, *Psycholegal Aspects of Organizational Behavior: Assessing and Controlling Risk*, in *HANDBOOK OF PSYCHOLOGY AND LAW* (D. Kagehiro & W. Laufer ed. in press).

131. E. LIND & T. TYLER, *THE SOCIAL PSYCHOLOGY OF PROCEDURAL JUSTICE* (1988).

132. Diamond, *Using Psychology to Control Law: From Deceptive Advertising to Criminal Sentencing*, 13 *LAW & HUM. BEHAV.* 239 (1989).

theory and research to examine the adequacy of warnings about potentially harmful products. He has used this research base in testifying as an expert about the adequacy of product warnings in specific civil cases.¹³³

Other corporate law matters are frequent subjects of judicial opinions and law review articles, but their social science aspects remain virtually unexplored. One such issue has to do with the court's reliance and scrutiny of business decisions by corporate boards of directors. The chair of the board of directors of a company may appoint a subcommittee of independent directors, that is, board members who are not directly involved in company management, to provide an independent evaluation of the wisdom of a merger, the merits of shareholder litigation, or other key business questions. The presumption is that directors without a direct financial stake in the company are better able to serve the corporations and shareholders' interests. But just how independent can they be? Psychological research on group relations indicates that members of continuing and closely knit groups sometimes have difficulty expressing views that are contrary to those of the group leader or the majority of other group members.¹³⁴ Cox and Munsinger reviewed the psychological research on group attachment and concluded that it gave cause for concern about the presumed independence of "independent" board members.¹³⁵ Various techniques can be used to counteract tendencies toward group bias, indicating the potential effectiveness of remedial action.

133. Glucksburg, On Expert Testimony: Risk Information and Warning Signs, talk presented at Proseminar in Psychology and Law, Stanford University, Stanford, California (Nov. 18, 1986).

134. I. JANIS, *GROUPTHINK* (2d ed. 1982). Janis coined the term "groupthink" to describe tendencies toward conformity in groups that lead to underestimates of risk of preferred alternatives. See also I. JANIS & L. MANN, *DECISION MAKING* (1977).

135. Cox & Munsinger, *Bias in the Boardroom: Psychological Foundations and Legal Implications of Corporate Cohesion*, 48 *LAW & CONTEMP. PROBS.* 83 (1985). Cox and Munsinger focused on the impact of such biases on special litigation committees, composed of independent directors, which are charged with evaluating derivative lawsuits against their colleagues on the board. They write that:

several social-psychological mechanisms . . . can generate bias in the directors' assessment of the suit, including biases established by appointment of members to the board or a special litigation committee, control of pecuniary or nonpecuniary rewards made available to the independent directors by the defendant members of the board of directors, the independent directors' prior associations with the defendants, and their common cultural and social heritages. We conclude that, in combination, these several psychological mechanisms can be expected to generate subtle, but powerful, biases which result in the independent directors' reaching a decision insulating colleagues on the board from legal sanctions.

Id. at 84-85. The implications of the psychological literature research they cite clearly extend beyond the consideration of litigation committees and derivative lawsuits, to other types of cases in which the courts consider directors' decisions.

One highly visible business law issue is the existence of corporate takeovers, including hostile takeovers in which a company's managers attempt to resist the takeover attempt of another company.¹³⁶ Economists and business analysts routinely provide projections about the impact of potential takeovers on stock prices and corporate debt. These projections could be supplemented by judgments of social scientists and organizational scholars about the social impact on the company to create a fuller picture of the consequences of such business actions. Research on group processes and psychological studies of group mergers, for example, could be used to help predict the potential impact of a takeover on the functioning of the combined company.¹³⁷ Another factor that a court might consider is whether a particular takeover would have deleterious impact on the corporate or organizational culture.¹³⁸

These examples are far from systematic. Even so, they point to some of the ways in which psycholegal research could contribute to

136. See generally R. HAMILTON, *CORPORATIONS* 776-858 (3d. ed. 1986).

137. Gaertner & Dovidio, *Prejudice, Discrimination, and Racism: Problems, Progress, and Promise*, in *PREJUDICE, DISCRIMINATION, AND RACISM* 315, 326 (S. Gaertner & J. Dovidio ed. 1986), citing, Schoennauer, *Behavior Patterns of Executives in Business Acquisitions*, *PERS. ADMIN.*, Jan./Feb. 1967, at 22, in which:

[s]uccessful mergers were associated with an integration pattern in which in the first stage the two management teams joined together without either company being required to conform to the style of the other, followed by a second stage in which the merged company developed a culture that represented a blend of the two corporate cultures or combined each into a pattern in which new values, norms, and procedures emerged.

138. *Paramount Communications Inc. v. Time Inc. [and related cases]*, C.A. No. 10866, Del. Ch. (July 14, 1989) (Allen, C.). Chancellor Allen wrote:

[Very important to Time management and its board] has been a desire to maintain an independent Time Inc. that reflected a continuation of what management and the board regarded as distinctive and important 'Time culture.' This culture appears in part to be pride in the history of the firm—notably *Time* Magazine and its role in American life—and in part a managerial philosophy and distinctive structure that is intended to protect journalistic integrity from pressures from the business side of the enterprise. . . . [P]laintiffs in this suit dismiss this claim of 'culture' as being nothing more than a desire to perpetuate or entrench existing management disguised in a pompous, highfalutin' claim. I understand the argument and recognize the risk of cheap deception that would be entailed in a broad and indiscriminate recognition of 'corporate culture' as a valid interest that would justify a board in taking steps to defeat a non-coercive tender offer. Every reconfiguration of assets, every fundamental threat to the status quo, represents a threat to an existing corporate culture. But I am not persuaded that there may not be instances in which the law might recognize as valid a perceived threat to a 'corporate culture' that is shown to be palpable (for lack of a better word), distinctive and advantageous.

Id. at 9-10.

For a review of psychological theory and research on organizational culture, see SCHEIN, *Organizational Culture*, 45 *AM. PSYCHOLOGIST* 109 (1990).

greater understanding of the impact and operation of business and corporate law. The psycholegal field stands to benefit as well. A number of commentators have critically noted that to date most psychology-law research has examined a relatively narrow range of criminal law topics.¹³⁹ Expanding the subject matter of our inquiry to include business and corporate law issues would enrich our grasp of the multiplicity of ways that law affects society.

139. Melton, *The Significance of Law in the Everyday Lives of Children and Families*, 22 GA. L. REV. 851 (1988); Saks, *The Law Does Not Live by Eyewitness Testimony Alone*, 10 LAW & HUM. BEHAV. 279 (1986); Tapp, *Psychologists and the Law: Who Needs Whom?*, in 2 APPLIED SOC. PSYCHOLOGY ANN. 263 (L. Bickman ed. 1981).

Figure 1. A Model of Judgments of Corporate Responsibility.

